

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202304482	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/11/2023 6:32 PM	Location of Incident: Mermaid Avenue and 22nd Street	18 Mo. SOL 11/11/2024	Precinct: 60		
Date/Time CV Reported Thu, 05/11/2023 8:00 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 05/22/2023 11:03 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Timothy Commander	06072	960385	BS SU CRT
2. PO Ahmed Ali	00064	970381	BS SU CRT
3. PO Matthew Coffaro	25515	969593	BS SU CRT
4. PO Anthony Caravana	04908	963432	BS SU CRT

Officer(s)	Allegation	Investigator Recommendation
A . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro stopped the vehicle in which § 87(2)(b) was an occupant.	
B . PO Ahmed Ali	Abuse: Police Officer Ahmed Ali stopped the vehicle in which § 87(2)(b) was an occupant.	
C . PO Timothy Commander	Abuse: Police Officer Timothy Commander stopped the vehicle in which § 87(2)(b) was an occupant.	
D . PO Anthony Caravana	Abuse: Police Officer Anthony Caravana stopped the vehicle in which § 87(2)(b) was an occupant.	
E . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro questioned § 87(2)(b)	
F . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro searched § 87(2)(b)	
G . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro frisked § 87(2)(b)	
H . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro failed to provide § 87(2)(b) with a business card.	
I . PO Matthew Coffaro	Abuse: Police Officer Matthew Coffaro provided a false official statement against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

### Case Summary

On May 11<sup>th</sup>, 2023, § 87(2)(b) filed the following complaint with IAB via email regarding an incident she witnessed involving her 24-year-old son, § 87(2)(b). The CCRB received this complaint on May 22<sup>nd</sup>, 2023.

On May 11<sup>th</sup>, 2023, at approximately 6:32 p.m., § 87(2)(b) was alone driving a dark gray Infinity sedan near the intersection of Mermaid Avenue and 22<sup>nd</sup> Street in Brooklyn. Police Officers Matthew Coffaro, Ahmed Ali, Timothy Commander, and Anthony Caravana, all of the Patrol Borough Brooklyn Community Response Team, stopped § 87(2)(b) vehicle (**Allegations A-D, Abuse of Authority**, § 87(2)(g)). PO Coffaro asked § 87(2)(b) to step out of the vehicle, and § 87(2)(b) complied. PO Coffaro asked § 87(2)(b) “Do you have any weapons on you, any drugs, anything like that?” (**Allegation E: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) replied, “No,” and PO Coffaro asked, “Do you mind if I search you for my safety?” § 87(2)(b) replied, “No problem,” and PO Coffaro searched § 87(2)(b) hoodie pocket and pants pockets, and frisked § 87(2)(b) waistband (**Allegation F, G, Abuse of Authority**, § 87(2)(g)). At the conclusion of the stop, PO Coffaro failed to provide § 87(2)(b) with a business card (**Allegation G, Abuse of Authority**, § 87(2)(g)). No arrests or summons resulted from this incident.

PO Coffaro generated a Common Law Right to Inquiry – Consent Search Report in which PO Coffaro made a false official statement against § 87(2)(b) (**Allegation I: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

Body worn camera footage for this incident was received from PO Coffaro, PO Ali, PO Commander, and PO Caravana, the relevant aspects of which are addressed in further detail below.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Matthew Coffaro stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Police Officer Ahmed Ali stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (C) Abuse of Authority: Police Officer Timothy Commander stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (D) Abuse of Authority: Police Officer Anthony Caravana stopped the vehicle in which § 87(2)(b) was an occupant.**

The investigation determined the following facts: § 87(2)(b) made a right turn onto Mermaid Avenue, at which point PO Coffaro, PO Ali, PO Commander, and PO Caravana stopped § 87(2)(b) vehicle. PO Coffaro told § 87(2)(b) he was stopped for tinted windows and an excessively loud motor. § 87(2)(b) § 87(2)(b) uncle, happened to be already on scene and spoke with officers from the sidewalk. § 87(2)(b) called § 87(2)(b) mother, § 87(2)(b) and she arrived on scene shortly thereafter.

§ 87(2)(b) declined to provide a statement to the investigation (see contact attempts for details). § 87(2)(b) and § 87(2)(b) testified (BR 01, BR 02) that § 87(2)(b) vehicle has tinted windows.

At 1:04 on PO Coffaro’s BWC (BR 03), the rear driver’s side window of § 87(2)(b) vehicle is captured. The window is tinted dark enough that it is difficult to see the occupants of the vehicle.

PO Coffaro testified (BR 04) that he observed § 87(2)(b) vehicle from behind a few minutes prior to the stop. The driver of the vehicle then quickly parked the vehicle and PO Coffaro kept driving. A few minutes later, PO Coffaro again observed § 87(2)(b) vehicle in motion and this time decided to initiate a vehicle stop. PO Coffaro also observed that § 87(2)(b) vehicle had excessive noise emanating from the exhaust, which was an additional vehicle infraction. PO Coffaro did not conduct any light remittance tests on § 87(2)(b) vehicle windows but knew from prior experience that they were tinted beyond the legal limit. All the windows of the vehicle were

tinted but PO Coffaro specifically observed the rear windshield. PO Coffaro used his discretion not to issue § 87(2)(b) any vehicle summons for the observed infractions.

As the entirety of this incident was captured on BWC, PO Ali, PO Commander, and PO Caravana were not interviewed for this investigation.

According to the NYS Department of Motor Vehicles, New York State Vehicle Traffic Law Article 9 Section 375 12a (BR 05) states that no person shall operate any sedan upon any public highway, road, or street if the windshield, front side, or rear side windows of the motor vehicle which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent unless such materials are limited to the uppermost six inches of the windshield.

§ 87(2)(b) and PO Coffaro's testimonies were consistent that § 87(2)(b) vehicle had tinted windows. PO Coffaro's BWC captures the tinted, rear side windows of § 87(2)(b) vehicle. § 87(2)(b) It is undisputed that § 87(2)(b) was driving a sedan on a public street when officers stopped him in his vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Matthew Coffaro questioned § 87(2)(b)**

**Allegation (F) Abuse of Authority: Police Officer Matthew Coffaro searched § 87(2)(b)**

**Allegation (G) Abuse of Authority: Police Officer Matthew Coffaro frisked § 87(2)(b)**

At 2:10 on the player timestamp of PO Coffaro's BWC footage, PO Coffaro instructs § 87(2)(b) to step out of the vehicle. As § 87(2)(b) does so, PO Coffaro asks, "Do you have any weapons on you, any drugs, anything like that?" § 87(2)(b) replies, "No." PO Coffaro then asks § 87(2)(b) "Do you mind if I search you for safety?" § 87(2)(b) replies, "Not a problem." PO Coffaro does not provide any further information to § 87(2)(b) regarding the nature of his consent, nor does he tell § 87(2)(b) that he has the right to refuse consent. From 2:20 to 2:37 on the player timestamp, PO Coffaro searches § 87(2)(b) hoodie pocket and right pants pocket. PO Coffaro then frisks § 87(2)(b) waistband and his right pant pocket.

PO Coffaro testified that he asked § 87(2)(b) if § 87(2)(b) had any weapons on his person, and subsequently searched and frisked § 87(2)(b) for the following reasons: PO Coffaro had earlier observed § 87(2)(b) vehicle parked and he believed it was atypical to see the same car driving moments later; § 87(2)(b) was looking in his rear-view mirror as PO Coffaro drove behind him, and; upon reaching the vehicle, § 87(2)(b) turned his torso and shoulders slightly away from PO Coffaro to look through his center console. PO Coffaro made no further observations about § 87(2)(b) or § 87(2)(b) vehicle that led him to believe § 87(2)(b) was armed. PO Coffaro searched § 87(2)(b) right and left pants pockets, hoodie pocket, and frisked his waistband. PO Coffaro could not articulate why he searched those areas specifically, apart from that he did not wish to search § 87(2)(b) entire body.

NYPD Patrol Guide Procedure 212-11 (BR 06) states that an officer may frisk someone when they reasonably believe that the person is armed and dangerous. This includes situations in which the officer reasonably suspects that the person has committed, is committing, or is about to commit a violent crime or when the officer observes something on the person that the officer reasonably suspects is a weapon.

New York City Administrative Code 14-173 (BR 07) states that officers must articulate, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such a person refuses to provide consent to such search.

In *People v. Garcia*, 20 N.Y.3d 317, (BR 08) the court found that during a lawful vehicle stop based on a VTL infraction, while evidence demonstrated the vehicle's occupant appeared nervous,

the officers could not ask the occupants if they possessed any weapons absent founded suspicion for the inquiry.

*People v. Robinson*, 125 A.D.2d 259 (BR 09) found that an officer, who has stopped a person based on a reasonable suspicion of criminality and has reason to believe they are dealing with an armed and dangerous individual, may conduct a protective frisk for weapons of that person. A reasonable intrusion is generally a pat down of the detained person's outer clothing to determine the existence of a weapon. Once the limited intrusion fails to reveal a weapon, the search must stop.

§ 87(2)(g)

**Allegation (H) Abuse of Authority: Police Officer Matthew Coffaro failed to provide § 87(2)(b) with a business card.**

**Allegation (I) Abuse of Authority: Police Officer Matthew Coffaro provided a false official statement against § 87(2)(b)**

It is undisputed that PO Coffaro searched § 87(2)(b) hoodie pocket, pants pocket, and frisked § 87(2)(b) waist. It is undisputed that no officers arrested § 87(2)(b) or issued him any summonses.

At 12:15 on the player timestamp of PO Coffaro's BWC footage, PO Coffaro is standing by the open, driver's side door of his police vehicle. § 87(2)(b) is captured approximately fifteen feet away, speaking with § 87(2)(b) near the curb. At 12:18, PO Coffaro states, "Business cards available, guys." § 87(2)(b) is approximately 15 feet away from PO Coffaro when he makes this statement. § 87(2)(b) does not turn or acknowledge PO Coffaro's statement. The BWC deactivates at 12:22, and PO Coffaro is not captured providing a business card to § 87(2)(b) is not captured refusing a business card from PO Coffaro.

PO Coffaro testified that at the conclusion of the stop, he offered § 87(2)(b) a business card by stating loudly, "Business cards available, guys." PO Coffaro was shown the portion of his BWC capturing this remark, and his attention was drawn to the fact that § 87(2)(b) was 15 feet away engaged in conversation and appeared not to hear PO Coffaro's offer. In response, PO Coffaro testified that he made the statement at a significant enough volume that § 87(2)(b) would have heard him.

In a Common Law Right of Inquiry – Consent to Search Report prepared by PO Coffaro for this incident (BR 12), PO Coffaro filled the field, "Business card refused?" with the answer, "Yes." PO Coffaro testified he generated this report on July 27<sup>th</sup>, 2023, after receiving his CCRB notification to appear for an interview, which was sent on July 24<sup>th</sup>, 2023, and which included notice of Allegation H, PO Coffaro's alleged failure to provide a business card.

NYC Administrative Code 14-174 (BR 10) states that at the conclusion of any searches of persons that do not result in arrest or summonses, members of service are required to offer a business card to such person.



NYPD Administrative Guide Procedure 304-10 (BR 11) defines a false statement as an intentional written or verbal statement that an officer knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made. Officers are prohibited from intentionally making a false official statement. It notes that officers have an obligation to review documents before signing or otherwise verifying their accuracy. It notes, however, the mere clerical errors or “erroneous statements, lacking in willful intent, and not so unreasonable as to be considered gross negligence, are not a basis for finding misconduct.”

It is undisputed that PO Coffaro questioned, searched and frisked § 87(2)(b) and that § 87(2)(b) was not arrested or issued summonses at the conclusion of the incident. While PO Coffaro’s BWC footage is consistent with his testimony that he stated, “Business cards available, guys,” at the conclusion of the stop, the same footage shows that § 87(2)(b) was approximately 15 feet away from PO Coffaro, engaged in conversation, and in no way acknowledged PO Coffaro’s statement.

§ 87(2)(g)

§ 87(2)(g)

PO Coffaro testified that after receiving his notification to appear at the CCRB, he generated the Consent to Search Report. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party.
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- PO Commander has been a member of service for seven years and has been a subject in two complaints and five allegations, of which one was substantiated.
  - 202101338 involved substantiated allegations of a failure to provide RTKA card. The Board recommended Command Discipline A and the NYPD imposed Command Discipline

A. § 87(2)(g)

- PO Ali has been a member of service for two years and has been named a subject in one complaint and one allegation. To date this investigation is still open. § 87(2)(g)
- PO Coffaro has been a member of service for two years and has been named a subject in one complaint and two allegations. To date this investigation is still open. § 87(2)(g)
- PO Caravana has been a member of service for six years and has been a subject in four complaints and seven allegations, of which five were substantiated.
  - 202001985 involved substantiated allegations of discourtesy (word) and refusal to obtain medical treatment allegation. The Board recommended Command Discipline A and the NYPD imposed no penalty.
  - 202102154 involved a substantiated allegation of a stop, vehicle search, and search of person. The board recommended Command Discipline A and the NYPD imposed Command Discipline A and Command Discipline B. § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- This complaint was unsuitable for mediation.
- As of August 15<sup>th</sup>, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (BR 15).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator:	C.V.	Inv. Carlo Vescovi	08/22/2023
	Signature	Print Title & Name	Date

Squad Leader:	Cassandra Fenkel	IM Cassandra Fenkel	08/23/2023
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date